

MICHIGAN DEPARTMENT OF CORRECTIONS <b>POLICY DIRECTIVE</b> SUBJECT <b>CRITICAL INCIDENT REPORTING</b>	EFFECTIVE DATE 10/16/2000	NUMBER 01.05.120
	SUPERSEDES 01.05.120 (01/30/95)	
	AUTHORITY MCL 791.203; 791.204	
	ACA STANDARDS 3-4176; 3-4194	
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## POLICY STATEMENT:

Critical incidents shall be promptly reported to ensure administrators are informed of such incidents and that other agencies are appropriately advised, victims are appropriately notified and inquiries from family members, the media and legislators can be accurately addressed. Critical incidents shall be reviewed to ensure direction can be provided as to how future incidents can be avoided.

## POLICY:

### DEFINITIONS

- A. ASSAULT - Physical contact as the result of an attack on, or intentional, non-consensual touching of, another person in anger or with intent to abuse.
  1. CATEGORY I ASSAULT - Assault resulting in death or serious physical injury.
  2. CATEGORY II ASSAULT - Sexual assault with penetration.
  3. CATEGORY III ASSAULT - Sexual assault without penetration but involving more than intentional non-consensual touching (e.g., use of force, attempted sexual penetration).
  4. CATEGORY IV ASSAULT - Sexual assault not covered in Category II or III.
  5. CATEGORY V ASSAULT - Assault with non-serious physical injury.
  6. CATEGORY VI ASSAULT - Assault with no physical injury.
- B. SERIOUS PHYSICAL INJURY - Physical injury that requires hospital admission or inpatient care but does not include instances where only emergency room treatment is provided.
- C. SEXUAL ASSAULT - Sexual penetration of, or sexual contact with, another person or intentional non-consensual touching of another person's genital area, buttocks or breasts.

### GENERAL INFORMATION

- D. For purposes of this policy, "employee" refers to Department employees and Department of Community Health (DCH) staff and contractual employees working in a facility, unless otherwise specified. All other individuals in a facility, except offenders, shall be considered "visitors".
- E. For purposes of this policy, "facility" refers to Correctional Facilities Administration (CFA) institutions, the Special Alternative Incarceration Program (SAI) facility, corrections centers, Technical Rule Violation centers (TRV), and Field Operations Administration (FOA) field offices, unless otherwise specified.
- F. Critical incidents which are required to be reported if occurring in a facility also shall be reported if occurring on facility grounds, while transporting offenders, or while an offender is on temporary release from a facility but still in Department custody (e.g., public works). In addition, certain critical incidents, as specified below, shall be reported whenever it becomes known that such an incident has occurred

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involving an offender under the Department's jurisdiction who was not in Department custody at the time of the incident.

#### CRITICAL INCIDENTS

- G. The following critical incidents shall be reported immediately by telephone and reported in writing as set forth in this policy:
1. Death of an on-duty employee or a visitor in a facility.
  2. Death of an offender in a facility unless the death occurs in a hospital setting due to a terminal illness. These incidents also shall be reported if the offender was under the Department's jurisdiction but not in Department custody when the incident occurred.
  3. Serious physical injury of an on-duty employee or of an offender or visitor in a facility. These incidents also shall be reported if the offender was under the Department's jurisdiction but not in Department custody when the incident occurred.
  4. Category I, II or III assault of an on-duty employee or a visitor in a facility.
  5. Category I or II assault of an offender in a facility. These incidents also shall be reported if the offender was under the Department's jurisdiction but not in Department custody when the incident occurred.
  6. Discharge of a firearm by an on-duty employee, except as required during training, qualification or practice.
  7. Use of force to control an offender which appears to be in violation of PD 04.05.110 "Use of Force".
  8. Loss or theft of a Department-issued firearm or chemical agent, or a personal firearm if lost or stolen while on duty.
  9. Act or threat of an act of collective insubordination, hostage-taking, demonstration, strike or riot.
  10. Escape or attempted escape from a TRV, or a SAI or a CFA facility. These incidents also shall be reported if the offender was under the Department's jurisdiction but not in Department custody when the incident occurred.
  11. Escape or attempted escape from Community Residential Programs (CRP) if a firearm is discharged, a civilian assisted in the escape or attempted escape, or there is suspicion that the offender was involved in additional felonious behavior.
  12. Major physical plant failure in a facility which results in building damage or loss of electrical power, heat, water, sewer or perimeter security. This applies only when the condition significantly affects facility security or the welfare of employees or offenders (e.g., loss of emergency power for security system).
  13. Fire, explosion or natural disaster resulting in death, serious physical injury or physical damage to facility property in excess of \$500.
  14. Major chemical or toxic spill in a facility.
  15. Arrest of a Department employee for any felony, or a misdemeanor for which the employee is subject to immediate suspension or, if found guilty, may be subject to dismissal in accordance with PD 02.03.100 "Employee Discipline". This also applies to DCH employees and contractual

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employees working in a facility who are known to have been arrested for similar conduct.

16. Discovery of a contraband gun, ammunition or explosive in a facility.
17. Sexual contact between a Department employee and an offender, for which the employee may be subject to discipline in accordance with PD 02.03.100 "Employee Discipline". This also applies to DCH employees and contractual employees working in a facility who are known to have had similar sexual contact with an offender.
18. An unusual event not identified above but which may attract public or media attention or which may expose the Department to potential liability, as determined by the facility head.

H. The following critical incidents shall be reported in writing as set forth in this policy:

1. Category IV or V assault of an on-duty employee or a visitor in a facility.
2. Category III, IV or V assault of an offender in a facility. These incidents also shall be reported if the offender was under the Department's jurisdiction but not in Department custody when the incident occurred.
3. Use of force to control a disruptive or resisting offender, including application of physical restraints. This does not include routine force used to separate fighting offenders or routine application of restraints.
4. Suicide attempt in a facility. These incidents also shall be reported if the offender was under the Department's jurisdiction but not in Department custody when the incident occurred.
5. Drug overdose in a facility, if medical treatment is required.
6. Death of an offender in a hospital setting due to a terminal illness.
7. The dispensing of a chemical agent by an on-duty employee, except as required during training, qualification or practice.
8. Public funds irregularity or discrepancy.
9. Any other arrest of an employee for a misdemeanor not covered under the immediate telephone reporting requirements set forth in Paragraph G.
10. An unusual event not identified above.

#### CRITICAL INCIDENT REPORTING REQUIREMENTS

- I. Each employee who is a participant in or witness to a critical incident shall immediately verbally report the incident through the chain of command to the facility head where the incident occurred. If the reporting employee is a Department employee who is not an employee of the facility at which the incident occurred, s/he also shall report the incident to his/her immediate supervisor.
- J. Each employee who is a participant in or witness to a critical incident also shall complete a Critical Incident Participant Report (CAJ-571). The completed report shall be submitted to the facility head or designee as soon as possible but not later than the conclusion of the same shift during which the incident occurred. If the employee does not work a shift, the report shall be submitted before the end of the employee's regular work hours.
- K. For critical incidents which require immediate reporting pursuant to Paragraph G, telephone notification shall be provided through the chain of command to the CFA or FOA Deputy Director, as appropriate.

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The Regional Prison Administrator (RPA), FOA Regional Administrator, or SAI facility Administrator shall provide telephone notification to the Administration and Programs (A&P) Deputy Director for incidents described in Paragraph G, numbers 12, 13 and 14. The CFA or FOA Deputy Director shall immediately notify the Director. The Deputy Director also shall inform the Office of Public Information and Communications of critical incidents which may attract media attention, and legislative liaison staff in the Executive Bureau of critical incidents which may attract legislative attention.

#### Additional CFA Requirements

- L. Upon receipt of the completed Critical Incident Participant Reports, the Warden or designee shall complete a Critical Incident Report (CAJ-570) before leaving the facility on the day the incident occurred. Each Critical Incident Report which involves an assault shall specify the assault category as identified in Paragraph A. The Warden shall ensure that a unique identification number is assigned to each Critical Incident Report.
- M. The Warden shall ensure the Critical Incident Report along with other related reports and forms required by this or another policy (e.g., Major Misconduct Report, Notice of Escape or Attempt to Escape) are submitted through the chain of command to the CFA Deputy Director no later than seven business days after the incident occurred. If the critical incident involves a DCH employee or an employee who is not an employee of the facility at which the incident occurred, the Warden shall forward a copy of the Critical Incident Report to the appropriate facility head or administrator. Whenever the DCH is notified, a copy of the Critical Incident Report also shall be provided to the Administrator of the Bureau of Health Care Services (BHCS).
- N. Each Warden shall ensure all critical incidents are recorded in appropriate custody assignment logbooks in accordance with PD 04.04.100 "Custody, Security and Safety Systems".

#### Additional FOA Requirements

- O. Upon receipt of the completed Critical Incident Participant Reports, the FOA facility head or designee shall complete a FOA Critical Incident Notification Form (CFJ-144). Each FOA Critical Incident Notification Form which involves an assault shall specify the assault category as identified in Paragraph A.
- P. The FOA facility head shall ensure the FOA Critical Incident Notification Form is submitted through the chain of command to the FOA Deputy Director via facsimile machine or electronic mail (i.e., e-mail) as soon as possible. Any supplemental information also shall be submitted on a FOA Critical Incident Notification Form through the chain of command to the FOA Deputy Director via facsimile machine or electronic mail as soon as possible. If a critical incident involves a DCH employee or an employee who is not an employee of the facility at which the incident occurred, the SAI facility Administrator or FOA Regional Administrator, as appropriate, shall forward a copy of the FOA Critical Incident Notification Form to the appropriate facility head or administrator. Whenever the DCH is notified, a copy of the FOA Critical Incident Notification Form also shall be provided to the BHCS Administrator.
- Q. The facility head shall ensure all critical incidents are recorded in appropriate facility logbooks as applicable.
- R. The FOA Deputy Director shall ensure a unique identification number is assigned after the initial FOA Critical Incident Notification Form is received.

#### RELEASE OF CRITICAL INCIDENT INFORMATION

- S. Critical incident information shall be made available to news media representatives by designated spokespersons in accordance with PD 01.06.130 "Media Relations".
- T. Requests for critical incident information under the Freedom of Information Act shall be handled in

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accordance with PD 01.06.110 "Freedom of Information Act - Access to Department Public Records".

#### POST INCIDENT REVIEW

- U. The Warden, FOA Regional Administrator or SAI facility Administrator, as appropriate, shall ensure a follow-up critique of each critical incident is conducted to identify, assess and correct any noted problem areas.
- V. The Warden, FOA Regional Administrator or SAI facility Administrator shall prepare a post incident report for each of the following critical incidents:
  - 1. Death of an on-duty employee or a visitor in a facility from other than natural causes.
  - 2. Category I, II or III assault of an on-duty employee or a visitor in a facility.
  - 3. Use of force to control an offender which results in serious physical injury.
  - 4. Act of collective insubordination, hostage-taking, strike or riot.
  - 5. Escape or attempted escape from a TRV, or a SAI or a CFA facility.
  - 6. Escape or attempted escape from CRP when a firearm is discharged or serious physical injury results.
  - 7. Serious physical injury or death caused by explosion, toxic and chemical spills, natural disaster or fire.
  - 8. Any critical incident not listed above, as determined by the Director or appropriate Deputy Director.
- W. The post incident report shall include a copy of the Critical Incident Report or FOA Critical Incident Notification Form, as appropriate. In addition, the post incident report shall include the following information if not contained in those reports:
  - 1. A detailed description of the sequence of events. The description shall include the date, time and location of all events and be accompanied by photographs and/or diagrams. This section shall provide the names and titles of all participants and witnesses including employees, visitors and offenders.
  - 2. A detailed facility critique of the incident and how employees responded to the incident. All relevant documents, including a copy of pertinent videotapes and any BHCS critique, Bureau of Correctional Industries reports, witness statements and reports from outside agencies, shall be included. Any changes in practice or procedure which were implemented or are planned to be implemented to correct a problem shall be reported.
  - 3. All administrative rules, policy directives and operating procedures applicable to the event shall be listed, accompanied by an explanation of compliance or non-compliance. This review also shall include an evaluation of training needs and any recommendations for change in policy directive or operating procedure requirements which were found to be inappropriate, inadequate or too difficult to implement.
  - 4. A plan of action, identifying deficiencies and providing a method of resolution. The plan will identify the staff responsible for the correction and the time frames for the completion of the recommended actions.
- X. The Warden, FOA Regional Administrator or SAI facility Administrator, as appropriate, shall submit the

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post incident report through the chain of command to the CFA or FOA Deputy Director within 30 calendar days after the incident. When a referral to the Michigan State Police (MSP) has been made and a disposition has not been received from MSP by the time the report is due, the Warden, FOA Regional Administrator or SAI facility Administrator may request a 30-day extension from the RPA or FOA Deputy Director, as appropriate. The RPA shall notify the CFA Deputy Director of each request approved. No more than two consecutive requests for extensions may be approved without the Director's approval.

- Y. The post incident report shall be reviewed by the CFA or FOA Deputy Director, or designees, to ensure it is complete, to evaluate staff response and to determine if there are any violations of policy or procedure.
- Z. For any critical incident involving the death of an offender who was receiving health care administered through the BHCS, the BHCS Chief Medical Officer shall submit the Statewide Mortality Review Committee recommendations within 90 days after receipt to the RPA and Warden, the FOA Regional Administrator or SAI facility Administrator, as appropriate. The RPA, FOA Regional Administrator or SAI facility Administrator shall submit the Committee's recommendations to the CFA or FOA Deputy Director for review.
- AA. The CFA or FOA Deputy Director shall submit the post incident report and the Statewide Mortality Review Committee recommendations, as applicable, to the Director with a recommendation whether a Post Incident Review Committee should be convened.
- BB. The Director shall determine the need to convene a Post Incident Review Committee and, as necessary, appoint a chairperson. In consultation with the appropriate Deputy Director and the Administrator of the Office of Policy and Hearings, the chairperson of the Post Incident Review Committee shall designate the members of the Post Incident Review Committee.
- CC. The Post Incident Review Committee may request additional information or investigations regarding the critical incident. The Committee shall prepare a report containing an in-depth analysis of the critical incident and recommend action to be taken. The report shall be forwarded to the Director for review. The appropriate Deputy Director shall develop an action plan to implement those recommendations accepted by the Director.

#### DOCUMENTATION

- DD. All documents, forms and videotapes related to critical incidents shall be retained as required by the Department's Record Retention and Disposal Schedule or, if not addressed in the schedule, for a minimum of three years.

#### OPERATING PROCEDURES

- EE. Each RPA and the FOA Deputy Director shall ensure that within 60 days of its effective date, procedures necessary to implement this policy directive are developed.

#### AUDIT ELEMENTS

- FF. A Primary Audit Elements List has been developed and will be provided to Wardens, FOA Regional Administrators and the SAI facility Administrator to assist with self audit of this policy, pursuant to PD 01.05.100 "Self Audit of Policies and Procedures".

BM:OPH:09/20/00